

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

NAKITA DONTIA LONG

PLAINTIFF

v.

No. 1:17CV171-MPM-JMV

SHERIFF JIM JOHNSON, ET AL.

DEFENDANTS

ORDER OF DISMISSAL

The court, *sua sponte*, takes up the dismissal of the plaintiff's case filed under 42 U.S.C. § 1983. The plaintiff, a prisoner proceeding *pro se*, seeks review of his sentence imposed under the laws of Mississippi. The plaintiff alleges that he was illegally convicted for burglary and larceny of an occupied dwelling. He alleges that his attorney coerced him to plead guilty to the charges, that some of the documents used to support his conviction were forged, that police continued to question him after he requested an attorney, and other irregularities involving his criminal conviction. He does not challenge the conditions of his confinement, as required under 42 U.S.C. § 1983; he instead challenges the fact and duration of his confinement, a claim which he should have brought as a *habeas corpus* claim under 28 U.S.C. § 2254. A claim under 42 U.S.C. § 1983 does not accrue until the conviction or sentence has been invalidated. *Heck v. Humphrey*, 512 U.S. 477, 489-90 (1994).

As the plaintiff has not shown that his conviction or sentence has been reversed, expunged, invalidated or impugned by the grant of a writ of *habeas corpus*, his claim under 42 U.S.C. § 1983 is not ripe for consideration and is **DISMISSED** for failure to state a claim upon which relief could be granted, counting as a “**STRIKE**” under 28 U.S.C. § 1915(g). The dismissal is without prejudice to the plaintiff's ability to file a *habeas corpus* claim under 28 U.S.C. § 2254.

SO ORDERED, this, the 23rd day of February, 2018.

/s/ MICHAEL P. MILLS
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF MISSISSIPPI